

California Community Colleges *may not* enforce it unconstitutionally. While FIRE does not directly engage in litigation, please be aware that any public university policy prohibiting constitutionally protected expression is an unlawful deprivation of constitutional rights under 42 U.S.C. § 1983 for which university administrators may be sued in their individual capacities. State officials and employees are offered only *qualified* immunity “insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.” *Davis v. Scherer*, 468 U.S. 183, 191 (1984). This means that administrators may be held personally liable for maintaining regulations, such as the one at issue here, that violate student and faculty First Amendment rights. Having been warned about unconstitutional provisions and uses of the Code, in the future you might not be able to claim qualified immunity from personal legal liability for the kinds of First Amendment violations described in our letter to President Agrella.

We encourage you to help President Agrella understand the risks of not acting to protect himself and SRJC from future liability. We urge you and President Agrella to lift the ban and to clarify the First Amendment rights of members of the SRJC community by announcing that private, noncommercial use of SRJC’s name both is and must be permitted among SRJC students and faculty members.

FIRE hopes to resolve this situation amicably and swiftly; we are, however, prepared to pursue this matter through to a just and moral conclusion. We request a response to this letter by August 19, 2009.

Sincerely,

Adam Kissel
Director, Individual Rights Defense Program

cc:

Jack O’Connell, State Superintendent of Public Instruction, State of California
Kay L. Albiani, President, Board of Governors, California Community Colleges
Robert Agrella, President, Santa Rosa Junior College
Mary Kay Rudolph, Vice President of Academic Affairs, Santa Rosa Junior College

Encl.